NEW JERSEY CITIZEN ACTION RESPONSE TO BPU STAFF STRAW RECOMMENDATIONS FOR UNIVERSAL SERVICE FUND DATED JUNE 14, 2006

New Jersey Citizen Action, the state's largest citizen watchdog coalition representing over 60,000 family members and more than 120 affiliated labor, tenant, religious, senior citizen, women's, community and civic organizations, appreciates this opportunity to submit the following comments in response to the BPU Staff's Straw Recommendations regarding changes to the Universal Service Fund (USF) that are proposed to be implemented in the upcoming program years (2006-2007 and 2007-2008).

The Staff recommendations were distributed to the USF Working Group on June 19, 2006. The USF Working Group is an informal group of program stakeholders who have provided input into the design and implementation of this program since its inception. New Jersey Citizen Action has been an active member of the working group since its inception. The Board also distributed the April 2006 report prepared by the Applied Public Policy Research Institute for Study and Evaluation (APPRISE), who were contracted by the BPU to conduct a comprehensive study of New Jersey's USF program.

APPRISE evaluated the program over the period beginning October 2003 and ending in November 2005. They conclude that the USF program has been effective during this period in accomplishing its goal of establishing more affordable gas and electric bills for poor NJ ratepayers.

NJCA believes that New Jersey's USF program is a model program for the country. While we agree with the Board Staff that some modifications to the program are warranted, and in some cases urgently needed, we are very concerned that many of the changes being proposed by staff will severely undermine the goal of the program and reduce program benefits at time when energy costs are soaring, making the program more critical than ever. In this regard, <u>NJCA urges the Board to reject the Staff recommendations concerning the USF Program Design</u> that will restrict eligible poor and low income consumers from participating in USF and reduce the benefits for those who are able to participate

NJCA encourages the Board to expand this successful program to those who are most in need and who, without it, cannot afford the basic necessities of life – shelter, heat, lights, food, medicine, and clothing. In this regard <u>we urge the Board to eliminate the current, arbitrarily established $1,800 cap on benefits and explore expanding program eligibility to 350% of the Federal Poverty Guidelines</u>. These recommendations are consistent with those submitted to Governor Corzine by his Energy Transition Policy Group in January, 2006, (attached).

Program Design

The goal of the USF program is to make energy bills affordable for New Jersey's neediest households. The program's intent is clear from the Board's April 30, 2003 Decision and Order establishing a permanent program and determining that "a USF should ensure that low-income customers have access to affordable energy under EDECA (N.J.S.A. 48:3-51). While the statute establishing the program does not find that the USF is, "a social benefit designed to solve all of a household's needs for financial assistance that pertain to energy usage," (the concern expressed in the Staff's straw recommendations), it does reference the establishment of the program within the context of other social programs that are designed to make electric and gas utilities affordable for low income residents.

BPU Staff, in its straw recommendations asks the Board to "affirm that the USF is a limited, annual energy assistance credit…," (Staff straw recommendations, p. 2). NJCA urges the Board not to affirm such a statement and reaffirm what exists throughout the many Decisions and Orders that have created a model energy affordability program for the nation – the USF is a program designed to make energy bills affordable and that it be structured on the premise that eligible customers with lower income and higher energy burdens would receive a higher credit than those with higher income and lower energy burden. Specifically, the Board has clearly ordered a program that includes:

1. A Universal Service Benefit calculated within a percentage of income payment plan (PIPP)

2. The PIPP will provide low-income customers with a credit based on assessments of income and consumption that reflect their ability to make affordable monthly payments to the utility. USF participants will earn a USF credit such that participants pay no more than 6% of their annual income toward their combined electric and gas bills, no more than of 3% of their annual income on gas bills alone, and 6% of their annual income on electric bills for those who have electric heat.

While no one has argued that NJ's USF program is or should be designed to solve the energy affordability crisis in the state or country, NJCA strenuously urges the Board to continue its support for the program as designed – one that establishes a level of energy affordability for these lifeline services that, unlike other services and/or commodities, have life and death impacts on peoples' lives.

During the long and continuing life of this proceeding, NJCA has argued that the affordability threshold should be set lower than 6%. According to the federal Department of Energy, low-income families pay much more for energy in relation to their total income than do the rest of the population. Average household energy expenses for all families in the U.S. are less than 2.7% of income. Yet for low-income families it is now on average 12.6% and for some senior citizens on fixed incomes the burden is as high as 35% of annual income. APPRISE finds that in the Northeast the average household energy burden is 3% of income and the average low income household energy burden is 9%. NJ's USF affordability threshold already blesses a significantly higher energy burden for low-income families than all other households across the country and in New Jersey. The staff's recommendations would, by their design erode existing benefits at a time when there is a demonstrated need for more, not less benefits.

The Staff's recommendations ask the Board to (1) clarify that the Board did not intend for the term "fully funded" to mean that they are willing to fund the USF program no matter what it would cost and to allocate a fixed sum of benefits; (2) clarify that the 6% affordability threshold is a "target" rather than a mandate; (3) establish a limited application window rather than maintain the current procedure of accepting applications year round, i.e., on a "rolling basis"; and (4) eliminate the Fresh Start, one-time arrearage forgiveness program.

While these changes will serve to make the program easier to administer for the various agencies and community organizations involved, and limit benefits (and therefore the overall cost of the program) we do not believe that it has been established that the program in its current design is too expensive or not cost-effective. Moreover, while it is certainly a laudable goal to make the program easier to administer, the answer should not be to simply cut enrollees who are eligible and in need of the program – rather adequate resources should be provided to resolve whatever administrative problems exist.

The BPU Staff asks the Board to clarify that the meaning of the term "fully funded" does not mean that the Board will pay any cost to fund any eligible participants who enrolled in the program up to the designated cap of $1,800 and also to clarify that the 6% PIP is not a mandate for the USF program to reach, but only a "target".

Staff offers no explanation as to what would occur if its recommendation to limit funding proves insufficient to provide benefits to all eligible applicants. Will the program be forced to reduce benefits for all USF participants? Will some kind of sliding scale be established whereby those with higher incomes receive fewer credits than those with lower incomes? Will eligible consumers simply be turned away?

<u>The Board's April 30, 2003 D&O is clear – the USF program "will be fully funded…" NJCA contends that the term "fully funded" means what any common sense interpretation means -- that the USF program will provide enough funds to cover all eligible program participants and reduce their energy burdens to 6% of their annual income. (As we know that there will not be 100% participation in the program – although that should be the goal – annual funding can appropriately be set based on program history and prior enrollment/reenrollment statistics). The Board should continue to allocate an amount of USF funding and recover any additional funding needed through the over-recovery/under-recovery process in currently in place.</u>

APPRISE finds that many of NJ's households with the lowest incomes already fail to receive enough benefits to keep their energy bills at the affordability threshold of 6% of income. <u>Staff's recommendation to cap USF funding would only serve to exacerbate this problem and should be rejected</u>.

BPU Staff contends that adjusting the amount of USF credits to maintain the 6% affordability threshold is "technologically and operationally impossible" and would "remove any incentive for customers to conserve energy and voluntarily reduce energy costs," (Staff's straw recommendations, pg. 3) This is simply not true. As the utility companies are able to regularly (several times a year) adjust rates in response to changing utility costs, so can the USF program be adjusted. Moreover, the staff's assertion that a 6% affordability threshold creates a disincentive for conservation is just wrong. The extensive record developed in this proceeding provides ample evidence that even a 6% PIP is still well above what middle and high income residents generally pay for utility services. And anyone who has struggled to live on an income at 175% of the federal poverty level in New Jersey should realize that even those who receive the USF benefits will look to save money wherever they can, including their energy bills.

It is vitally important that the core tenet of this program be maintained – that utility bills should be affordable for everyone, regardless of income, and the best way to achieve that goal is through a PIPP program that establishes a realistic and affordable energy burden. This is very different from administering a program that provides a fixed dollar benefit to everyone, regardless of income or usage. Adopting staff's recommendations runs the risks of fundamentally altering this very basic nature of the program.

Staff's recommendation to limit the application period for the USF program is also particularly troubling. <u>NJCA urges the Board to reject this recommendation and continue to allow USF applications on a "rolling" basis</u>.

Staff has failed to clarify this recommendation and is unclear about when and for how long such an application "window" would be in place. Moreover, establishing such a window only serves to discriminate against those ratepayers who happen to have been automatically enrolled in the program during the application windows of other programs, (i.e., LIHEAP), or were lucky enough to hear about the program through some other means. Given that ratepayers have to pay their bills all year, can move into the state at any time of the year, that the program has yet to enroll even a majority of eligible participants, and that we know most New Jerseyan's know very little, if anything about the program, NJCA asserts it would be unfair and unwise to eliminate, again one of the program's finer qualities, year-round enrollment.

APPRISE found that knowledge and awareness of the USF program is quite low among the participating and eligible population. Only 25% of USF participants who knew that they were receiving USF benefits knew that they had to re-apply for the program every year (APPRISE Report, pg. 58) in order to show that they were still income eligible. A new and more effective outreach program must be developed so that more people will apply (or re-apply) for USF and continue to receive benefits. The Board should direct its Staff to facilitate this process rather than a process that seeks to lower enrollment.

The Energy Assistance Program page on the BPU website gives the following description of the USF program, **"The goal of the USF program is to ensure that income eligible New Jersey utility customers pay no more than 6% of their annual income for their natural gas and electric service combined**", (emphasis added). <u>The Staff's recommendations regarding fixed funding, restricting enrollment and classifying the 6% PIP only as a "target" are clearly contrary to the Board's intent and should be rejected</u>.

NJCA opposes the Board staff's recommendation to eliminate the Fresh Start arrearage forgiveness program. Arrearage forgiveness is an essential part of the USF program's goal of creating a path for poor, low and fixed income consumers to establish regular affordable payments and we strongly urge the Board to maintain this program. The Fresh Start program acknowledges that the participant's utility payments before they were found eligible for the program were unaffordable. If Fresh Start were to be eliminated, and USF participants left to deal with unaffordable arrearages on their own, such participants will most likely continue to experience payment problems and build up new arrearages, creating the same cycle of problems the program is trying to address.

Staff supports its recommendation to eliminate the program by claiming that APPRISE could find no evidence that this program increased payment compliance among its participants. However, the APPRISE report did show that only about 20% of Fresh Start Participants were aware that they were in this program and receiving benefits (APPRISE Executive Summary, pg. xi), indicating that a majority of the Fresh Start Program's participants do not understand either the requirements and/or benefits of the program. Rather than eliminate the program, NJCA recommends that a better education and outreach program be implemented (and one that includes basic financial literacy skills) so that ratepayers fully understand the benefits of the program as well as the consequences of failing to maintain payments.

JCP&L's pilot program with Dollar Energy (see the APPRISE report, page 92), supports the need for better education and alternative forms of payment counseling for USF customers, including those enrolled in Fresh Start. The report states that the "evaluation of that program demonstrated that those customers who were contacted by Dollar Energy had a higher payment compliance rate than those who were not contacted" and that this was a cost-effective approach to assisting Fresh Start customers. Rather than throw the proverbial baby out with the bath water, the Board should require these kinds of programs on a statewide basis, evaluate the results and only then consider changes to the program.

Staff further asserts that Fresh Start be eliminated because of the Board's financial responsibility to all ratepayers of New Jersey. They claim that ratepayers do not want to pay for a "debt forgiveness" plan for low-income households.

While APPRISE did not have the data to determine the cost-effectiveness of the Fresh Start Program, NJCA continues to believe that the amount needed to fund Fresh Start will be offset by lower debt collection costs.

It appears that APPRISE did not have the data because some utilities failed to collect all the information that was needed to conduct the net-cost analysis. Until such time as all of the necessary data is collected and evaluated, we believe the Board should maintain the program as one providing benefits for all ratepayers.

NJCA disagrees with Staff's assertion that ratepayers do not want to pay for Fresh Start. This is similar to all ratepayers paying for other societal benefit programs, like the Clean Energy Program, where all ratepayers support programs that may only directly benefit a few, (i.e., not all ratepayers will avail themselves of solar rebates for example) but indirectly benefit all through lower utility costs.

NJCA recommends that the Board expand the reach of the USF program by exploring raising the income eligibility threshold from 175% of the federal poverty guideline to 350%.

According to The Legal Services of New Jersey's Poverty Research Institute in its 2005 Report, ***The Real Cost of Living in 2005: The Self Sufficiency Standard for New Jersey,*** "the most significant shortcoming of the federal poverty measure is that for most families, in most places, it is simply not high enough," (page 2). And while NJ USF program uses 175% of poverty, it is not clear that even this standard is high enough to capture those New Jersey families who, while earning more than 175% of poverty, can maintain a 6% energy burden.

APPRISE, at Table 3-17 (pages 27-28) finds that only 5% of USF eligible households had an income above $30,000 in 2004. As a result, we do not believe that raising the income eligibility standard would result in considerable additional costs increases due to the 6% energy burden being harder for these households to reach. We recommend that the issue be evaluated by the Working Group for implementation in the 2007-2008 program year. However, for the houses that do qualify, it would allow for USF to provide its effective services to more people that need it.

Benefit Distribution

NJCA opposes the staff's straw recommendation to maintain the program's current $1,800 benefit cap.

A cap on the USF credit is inconsistent with the program goal of establishing a 6% energy burden for low and fixed income eligible ratepayers and should be eliminated. The USF program is now entering its 4th year, and since its inception, utility rates have skyrocketed pushing against the cap. .

The APPRISE report fails to detail how many USF participants actually reach the $1,800 cap. However, at the recently convened but Working Group Conference Call (August 29, 2006), APPRISE state stated that 14,000 members of the HEA and Lifeline populations (12,000 and 2,000 respectively) would need more than the $1,800 cap. APPRISE noted that this number is probably higher now due to an increase in benefits since that time.

Citizen Action agrees with the Board Staff and APPRISE that USF participants would benefit from a "levelized" or "Budget Billing" program that allows equal payment amounts on their energy bill for each month of the program year. APPRISE s finds that other programs have demonstrated payment plans has helped with payment compliance (pg. 93). NJCA recommends that the Board analyze the upcoming results from the South Jersey Gas pilot program and determine the best way to implement this into USF.

Fiscal Responsibility

NJCA understands the Board Staff's concerns regarding the program's fiscal accountability. Citizen Action agrees that DHS be required to submit a budget in a timely manner and that program audits should be conducted to determine if the administrating agencies (utilities and state agencies) have fulfilled their fiscal responsibilities.

However, NJCA is concerned that the current administrative budget of $3 million is insufficient to properly carry out the program. The APPRISE report showed that there is a significant awareness problem among USF participants and NJ's eligible and general populations. Concerns have also been expressed about the accessibility and effectiveness of the data systems that allow for reports to be conducted and more importantly process the USF applications. APPRISE suggested that there needs to be an increase in administrative costs to 10% of the total USF budget so that the USF program can continue to be run efficiently and effectively. NJCA supports this recommendation and encourages to the Board to do so as well.

One Stop Shopping

NJCA supports the concept of one-stop shopping. It makes sense to allow low-income energy consumers to apply for all the energy assistance programs for at one time. However, as discussed above, we would not support implementing a limited application window for USF solely because it is linked to the HEA application, (which consumers can apply for only throughout the winter months). NJCA also opposes automatic enrollment of USF participants into the Comfort Partners or other weatherization programs when they may not have the means to comply with the program requirements, (for example, USF recipients who are renters may not be able to install weatherization measures).

Lifeline Participants

Throughout this proceeding, the pressing issues regarding Lifeline USF participation, by which we mean those who were "grand-fathered" into USF and continue to receive benefits although they are no longer eligible, and the thousands of "Lifeline only" recipients who were automatically enrolled into USF who will be dropped out of the program because they do not know that they have to re-apply, have been raised repeatedly**.** The Board's Decision and Order (Docket No. EX00020091, Agenda 03-20-2003) ordered that all Lifeline clients who are income eligible should be automatically screened for USF due to the lack of a one-stop application. This automatic screening should occur again this year in order to drop those grand-fathered clients that are no longer eligible for the USF program, but also to ensure that those who are eligible continue to receive the USF credits that they need.

One of the most significant findings of the APPRISE report is that NJ's elderly population is underrepresented in the USF program. Failure to conduct an automatic screening of this vulnerable population will only serve to make this problem worse. Moreover we should take every measure to avoid dropping those households that are eligible but might not be aware that they have to re-apply for the program by applying for HEA**.** NJCA strongly supports the recommendations contained in AARP's memorandum, distributed at the Edison Workshops on August 10 and 11 (and attached), and urges the Board to continue to automatically screen the Lifeline population for USF eligibility.

Communications

The results of the APPRISE report clearly indicate that program communications surrounding the USF program should be a major concern for the Board. Knowledge and awareness of the USF program is low among the general population, the USF eligible population, and even USF participants.

Communications about USF need to reach the current participants so that they better understand the program(s) that they are in, realize the benefits of the USF program, and fulfill all program requirements (particularly with regards to the Fresh Start Program). Education/Communication strategies also need to be implemented to reach the eligible populations that have yet to enroll in the USF program.

NJCA supports the Staff's recommendation to retain an experienced communications firm to develop an effective outreach strategy, especially in regards to targeted communications for the vulnerable populations that the APPRISE report showed were underrepresented in the USF program.

Program Measures

The following are the measures that are most important to NJCA: (1) Percentage of eligible households and applicants that received the USF benefit; (2) Re-enrollment and successful re-enrollment rates; (3) Comparison of the percentage of income actual paid in year for utility bills to the 3%/6% targets; (4) Program Awareness and Understanding Measures; and (5) Changes in USF participant hardships as measured by the Energy Insecurity Scale

However, there are other measures that NJCA would like to propose but they might not be applicable due to possible program changes that result from this Stakeholder's process. NJCA would like to further discuss program measures after the Board has decided on the changes for the upcoming program years. The Rate Counsel has recently suggested that a sub-group be created to discuss program measures after the Board makes its decisions. NJCA would be pleased to be apart of this sub-group.